

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DEC 18 2019

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ELDON L. LEINWEBER,

Defendant.

2:19-CR-209-WFN

INDICTMENT

Vio: 21 U.S.C. §§ 841(a)(1),
(b)(1)(C), 21 C.F.R. § 1306.04
Distribution of Controlled
Substances Without Legitimate
Medical Purpose
(Counts 1 – 4)

21 U.S.C. § 853
Forfeiture Allegations

The Grand Jury charges:

GENERAL ALLEGATIONS

At All times relevant and material to this Indictment:

1. Defendant ELDON L. LEINWEBER (hereinafter “LEINWEBER”) owned and operated North Central Washington Health, LLC (“NCWH”) dba Mansfield Family Medicine (“MFM”), located at 22 West Highway 28, Soap Lake, Washington. MFM is registered as a health facility with the State of Washington Department of Health (“DOH”) under license number MTSW.FS.60337040.

1 2. LEINWEBER was a practicing Physician's Assistant who held a
2 Washington Physician's Assistant license (PA10004217) and U.S. Drug
3 Enforcement Administration ("DEA") registration number (ML1154537). As
4 such, LEINWEBER was authorized to prescribe controlled substances for
5 legitimate medical purposes and in the usual course of professional practice.

6 3. In the State of Washington, a physician's assistant shall practice
7 medicine only under the supervision and control of a physician licensed in this
8 state, but such supervision and control shall not be construed to necessarily require
9 the personal presence of the supervising physician or physicians at the place where
10 services are rendered. WASH. REV. CODE § 18.71A.020(2)(b)(II).

11 4. The Controlled Substances Act, 21 U.S.C. §§ 841, et seq. ("CSA")
12 governs the manufacture, distribution, and dispensing of controlled substances in
13 the United States. With limited exceptions for medical professionals, the CSA
14 made it "unlawful for any person knowingly or intentionally ... to manufacture,
15 distribute, or dispense ... a controlled substance."

16 5. The CSA defines a "controlled substance" as a drug or other
17 substance that is included in one of five schedules – Schedules I, II, III, IV, or V –
18 of Subchapter I, Part B of the Act. 21 U.S.C. § 802(6). Drugs or substances are
19 placed into these schedules based on their potential for abuse, among other
20 reasons.

21 6. "Schedule II" means that the drug or other substance has a currently
22 accepted medical use with severe restrictions and has a high potential for abuse
23 that can lead to severe psychological or physical dependence. 21 U.S.C. §
24 812(b)(2).

25 7. "Oxycodone" is a generic name for a narcotic (opioid) analgesic. It is
26 also sold under the brand name Percocet. Oxycodone is classified under federal
27 law as a Schedule II controlled substance. When legally prescribed for a legitimate
28

1 medical purpose, oxycodone typically is used for the relief of moderate to severe
2 short-term pain. Oxycodone can be extremely habit-forming. Oxycodone is to be
3 prescribed only when medically required and is to be taken only in a manner
4 prescribed by a licensed medical practitioner for a particular patient.

5 8. "Hydromorphone" is a generic name for a narcotic (opioid) analgesic.
6 It is also sold under the brand name Dilaudid. Hydromorphone is classified under
7 federal law as a Schedule II controlled substance. When legally prescribed for a
8 legitimate medical purpose, hydromorphone typically is used for the relief of
9 moderate to severe short-term pain. Hydromorphone can be extremely habit-
10 forming. Hydromorphone is to be prescribed only when medically required and is
11 to be taken only in a manner prescribed by a licensed medical practitioner for a
12 particular patient.
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14 9. Pursuant to 21 U.S.C. § 822(b) and 21 C.F.R. § 290.1, the controlled
15 substances listed in Schedules II, III, IV, and V can be dispensed or distributed
16 only by prescriptions by a practitioner registered with the DEA for that purpose.
17 The DEA, as authorized by the CSA, issues registration numbers to qualifying
18 medical practitioners that allow them to issue prescriptions for Schedule II, III, IV,
19 and V controlled substances. Accordingly, controlled substances, such as opioid
20 pain medications, can be dispensed only pursuant to a valid prescription from a
21 medical practitioner authorized by the DEA to distribute controlled substances. 21
22 C.F.R. § 1306.03.

23 10. The term "practitioner" meant a medical doctor, dentist, or other
24 person licensed, registered, or otherwise permitted by the United States or the
25 jurisdiction in which he or she practiced, to distribute or dispense a controlled
26 substance in the course of professional practice.
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28

1 11. LEINWEBER was a physician's assistant licensed by the State of
2 Washington Medical Board and considered a "practitioner" within the meaning of
3 the CSA.

4 12. Individual practitioners who, during times material to this Indictment,
5 wanted to distribute or dispense controlled substances in the course of professional
6 practice were required to register with the Attorney General of the United States
7 ("Attorney General") before they were legally authorized to do so. Such individual
8 practitioners were assigned a registration number by the DEA. LEINWEBER was
9 registered with the Attorney General and DEA under registration number
10 ML1154537.
11

12 13. Practitioners registered with the Attorney General were authorized
13 under the CSA to write prescriptions for, or to otherwise dispense, Schedule II, III,
14 IV, and V controlled substances, so long as they complied with the requirements of
15 their registrations. 21 U.S.C. § 822(b).

16 14. For practitioners, compliance with the terms of their registration
17 meant that they could issue a prescription for a controlled substance to a patient
18 only if the prescription was "issued for a legitimate medical purpose by an
19 individual practitioner acting in the usual course of professional practice." 21
20 C.F.R. § 1306.04(a). A practitioner violates the CSA and Code of Federal
21 Regulations if he or she issues a prescription for a controlled substance outside the
22 usual course of professional medical practice and not for a legitimate medical
23 purpose. Such knowing and intentional violations subjected the practitioner to
24 criminal liability under 21 U.S.C. § 841(a) and 21 C.F.R. § 1306.04(a).
25

26 15. Pursuant to 21 C.F.R. § 1306.12, the refilling of a prescription for a
27 Schedule II controlled substance is prohibited. However, a practitioner may issue
28 multiple prescriptions authorizing a patient to receive a total of up to a 90-day
supply of a Schedule II controlled substance if these and other conditions are met:

(1) each separate prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of professional practice; (2) the practitioner provides written instructions on each prescription (other than the first prescription, if the prescribing practitioner intends for that prescription to be filled immediately) indicating the earliest date on which a pharmacy may fill each prescription; and (3) the practitioner concludes that providing the patient with multiple prescriptions in this manner does not create an undue risk of diversion or abuse. 21 C.F.R. § 1306.12(b)(1).

16. LEINWEBER distributed and dispensed, and caused to be distributed and dispensed, Schedule II controlled substances that were not prescribed for a legitimate medical purpose and not in the usual course of professional practice in the following non-exhaustive manners:

- a. Conducting cursory, incomplete inadequate or no medical examination;
- b. Collecting and reviewing inadequate patient medical history and follow-up verifications;
- c. Conducting insufficient dialogue with the patient regarding treatment options and risks and benefits of such treatments;
- d. Primarily treating patients with highly addictive controlled substances while failing to consider or prescribe other treatment options;
- e. Prescribing highly addictive controlled substances despite inadequate diagnostic testing;
- f. Prescribing highly addictive controlled substances to patients who complained of undocumented or uncorroborated physical ailments where lesser treatment options would be indicated;
- g. Failing to assess the risk of abuse for individual customers;

- h. Failing to monitor the patients' responses to the medication or compliance with medical usage;
- i. Failing to query the Prescription Monitoring Program; and
- j. Failing to take a history of drug or alcohol abuse for individual patients.

SPECIFIC ALLEGATIONS

COUNTS 1 - 4

17. Paragraphs 1 through 16 of the General Allegations section of this Indictment are re-alleged and fully incorporated herein by reference.

18. On or about the dates set forth below, in the Eastern District of Washington, the Defendant, ELDON L. LEINWEBER, did knowingly and intentionally distribute and dispense, and cause to be distributed and dispensed, a mixture and substance containing a detectable amount of a Schedule II controlled substance (Oxycodone, Hydromorphone), as listed below, by issuing "prescriptions" without a legitimate medical purpose and outside the usual course of professional practice, each of which constitutes a separate count of this Information:

COUNT	Approximate Distribution Date	Name on Prescription	Controlled Substance	Quantity
1	3/19/2019	P.D.	Percocet 5/325mg	30 pills
2	3/19/2019	Jane Doe	Dilaudid 8mg	140 pills
3	4/16/2019	P.D.	Percocet 5/325mg	30 pills
4	4/16/2019	P.D.	Percocet 5/325mg	30 pills

All in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C), 21 C.F.R. § 1306.04.

NOTICE OF CRIMINAL FORFEITURE ALLEGATIONS

The allegations contained in this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeitures.

Pursuant to 21 U.S.C. § 853, upon conviction of an offense(s) in violation of 21 U.S.C. § 841 as set forth this Indictment, Defendant ELDON L. LEINWEBER shall forfeit to the United States of America, any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offense(s) and any property used or intended to be used, in any manner or part, to commit or to facilitate the commission of the offense(s).

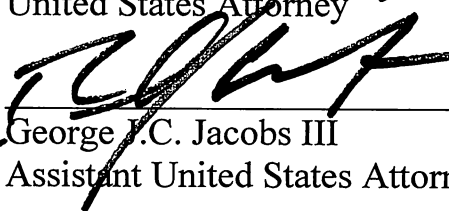
If any of the property described above, as a result of any act or omission of the Defendant(s):

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to 21 U.S.C. § 853(p).

DATED this 17 day of December, 2019.


William D. Hyslop
United States Attorney


George J.C. Jacobs III
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